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9
10 UNITED STATES DISTRICT COURT

11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 ON THE CHEAP, LLC DBA TRU FILTH,
13 LLC, a California Limited Liability Company,

CASE NO. C 10-04472 BZ

FIRST AMENDED COMPLAINT FOR
INJUNCTIVE RELIEF, DAMAGES AND
PROFITS FOR COPYRIGHT
INFRINGEMENT; AND DEMAND FOR
JURY TRIAL

14 DOES 1-5011,
15 Defendants.

16
17 Plaintiff On the Cheap, LLC DBA Tru Filth, LLC (sometimes referred to herein as
18 "Plaintiff") for its First Amended Complaint against Defendants Doe 1 through Doe 5011
19 (sometimes referred to herein collectively as "Defendants") alleges as set forth below.

20 NATURE OF THE CLAIM, JURISDICTION AND VENUE

21 1. This is an action for copyright infringement under the United States Copyright
22 Act, 17 U.S.C. §§ 101 etc. Jurisdiction of this Court over this action is conferred by 28 U.S.C. §
23 1338(a).

24 2. Venue in this District is proper under 28 U.S.C. § 1391(b) and/or 28 U.S.C. §
25 1400(a). Although the true identity of each Defendant is unknown to the Plaintiff at this time, on
26 information and belief, each Defendant may be found in this District, and/or the acts complained
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1 of herein occurred and/or have a significant effect within this District. Therefore, venue in this
2 Court is proper in accordance with 28 U.S.C. §§ 1391(b) and 1400(a).

3 **INTRADISTRICT ASSIGNMENT**

4 3. This is an intellectual property action and is therefore exempt from the
5 requirements of Civil Local Rule 3-2(c).

6 **THE PARTIES**

7 4. Plaintiff On the Cheap, LLC DBA Tru Filth, LLC is a limited liability company
8 duly formed and existing under the laws of California, and has a principal place of business at
9 21636 Lassen Street, Chatsworth, California 91311.

10 5. The true names of Defendants are unknown to the Plaintiff at this time. Each
11 Defendant is known to Plaintiff only by the Internet Protocol ("IP") address assigned to that
12 Defendant by his, her or its Internet Service Provider on the date and at the time at which the
13 infringing activity of each Defendant was observed. The IP address of each Defendant, together
14 with the date and time at which his, her or its infringing activity was observed, is included on
15 **Exhibit A** which is attached hereto. On information and belief, Plaintiff states that information
16 obtained in discovery will lead to the identification of each Defendant's true name and address,
17 and permit Plaintiff to amend this Complaint to state the same.

18 **COUNT I**

19 ***COPYRIGHT INFRINGEMENTS UNDER 17 U.S.C. §§ 101 ETC.***

20 6. Plaintiff repeats and reincorporates herein the allegations set forth in paragraphs
21 1-5 above.

22 7. Plaintiff is a motion picture production company. Plaintiff is, and at all relevant
23 times has been, the owner of the copyrights and/or the owner of the exclusive rights under the
24 copyrights in the United States in the motion picture titled "Danielle Staub Raw" (the "Motion
25 Picture").

26 8. The Motion Picture is an original work that may be copyrighted under United
27 States law. The Motion Picture is the subject of a valid Certificate of Registration issued by the
28 United States Copyright Office, that is Copyright Registration No. PAu 3-489-521 (also listed in

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1 United States Copyright Office records as Registration Number PAu003489521), dated June 23,
2 2010, and Plaintiff owns that registration.. The title of the Motion Picture and its copyright
3 registration number are included in **Exhibit A**.

4 9. Plaintiff has either published or licensed for publication all copies of the Motion
5 Picture in compliance with the copyright laws.

6 10. **Exhibit A** identifies, on a Defendant-by-Defendant basis (one Defendant per
7 row), the copyrighted motion picture, and the registration number of the copyright for that
8 motion picture, that each Defendant has, without the permission or consent of the Plaintiff,
9 reproduced and distributed to the public. That is, each Defendant listed in **Exhibit A** has,
10 without permission or consent of Plaintiff, reproduced and distributed to the public at least a
11 substantial portion of Plaintiff's copyrighted work that is listed in the same row as the identifier
12 for that Defendant (i.e., Plaintiff's copyrighted Motion Picture). **Exhibit A** also sets out the
13 Internet Protocol ("IP") address associated with each Defendant, the identity of the Internet
14 Service Provider (often referred to as an "ISP") associated with the IP address, the last-observed
15 date and time ("Timestamp") that the infringement by that Defendant of Plaintiff's copyright in
16 the Motion Picture was observed, and the software protocol used by the Defendant. Further in
17 this regard, Plaintiff is informed and believes that each of the Defendants, without the permission
18 or consent of Plaintiff, has used, and continues to use, an online media distribution system
19 (sometimes referred to as a "peer to peer" network or a "P2P" network) to reproduce at least one
20 copy of the Motion Picture, and to distribute to the public, including by making available for
21 distribution to others, copies of the Motion Picture. Each Defendant's actions constitute
22 infringement of the Plaintiff's exclusive rights in the Motion Picture protected under the
23 Copyright Act of 1976 (17 U.S.C. § 101 et seq.), including under 17 U.S.C. § 106(1) and (3).
24 Each Defendant has infringed Plaintiff's copyrights in the motion picture titled "Danielle Staub
25 Raw," which is the subject of Plaintiff's Copyright Registration No. PAu 3-489-521.

26 11. Each Defendant has acted in cooperation with the other Defendants by agreeing to
27 provide, and actually providing, on a P2P network an infringing reproduction of at least
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1 substantial portions of Plaintiff's copyrighted Motion Picture, in anticipation of the other
2 Defendants doing likewise with respect to that work and/or other works.

3 12. Each of the Defendant's acts of infringement have been willful, intentional, and in
4 disregard of and with indifference to the rights of Plaintiff.

5 13. Plaintiff has suffered both money damages and irreparable harm as a result of
6 each Defendant's infringement of Plaintiff's copyrights in the Motion Picture. In addition,
7 discovery may disclose that one or more of the Defendants obtained profits as a result of such
8 infringement.

9 14. As a result of each Defendant's infringement of Plaintiff's exclusive rights under
10 copyright, Plaintiff is entitled to relief pursuant to 17 U.S.C. § 504, and to its attorneys' fees and
11 costs pursuant to 17 U.S.C. § 505.

12 15. The conduct of each Defendant is causing and, unless enjoined and restrained by
13 this Court will continue to cause, Plaintiff great and irreparable injury that cannot fully be
14 compensated or measured in money. Plaintiff has no adequate remedy at law. Pursuant to 17
15 U.S.C. §§ 502 and 503, the Plaintiff is entitled to injunctive relief prohibiting each Defendant
16 from further infringing Plaintiff's copyrights and ordering that each Defendant destroy all copies
17 of the copyrighted motion pictures made in violation of the Plaintiffs' copyrights.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests that the Court enter judgment against each Defendant as follows:

21 A. For a judgment that such Defendant has infringed Plaintiff's copyright in the
22 Motion Picture;

23 B. For entry of preliminary and permanent injunctions providing that such
24 Defendant shall be enjoined from directly or indirectly infringing the Plaintiffs' rights in the
25 Motion Picture, including without limitation by using the Internet to reproduce or copy the
26 Motion Picture, to distribute the Motion Picture, or to make the Motion Picture available for
27 distribution to anyone, except pursuant to a lawful license or with the express authority of
28 Plaintiffs;

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1 C. For entry of preliminary and permanent mandatory injunctions providing that
2 such Defendant shall destroy all copies of the Motion Picture that Defendant has downloaded
3 onto any computer hard drive or server without Plaintiff's authorization and shall destroy all
4 copies of the Motion Picture transferred onto any physical medium or device in Defendant's
5 possession, custody, or control;

6 D. For entry of judgment that such Defendant shall pay actual damages and profits,
7 or statutory damages, pursuant to 17 U.S.C. § 504, at the election of Plaintiff;

E. For entry of judgment that such Defendant shall pay Plaintiff's costs;

F. For entry of judgment that such Defendant shall pay Plaintiff's reasonable

10 attorney fees; and

11 G. For entry of judgment that Plaintiff have such other relief as justice may require
12 and/or as otherwise deemed just and proper by this Court.

Respectfully submitted,

Date: January 24, 2011

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JURY DEMAND

Plaintiff hereby demands trial by jury on all issues so triable.

Respectfully submitted,

Ira M. Siegel

Date: January 24, 2011

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Exhibit A

to

FIRST AMENDED COMPLAINT

On the Cheap, LLC DBA Tru Filth, LLC v. Does 1-5011, Case No. C 10-04472 BZ

Attachment 1

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Table of Last-Observed Infringements by Defendants of Copyrights in Listed Motion Pictures
that Are the Subject of On the Cheap, LLC DBA Tru Filth, LLC's Listed Copyright Registrations

Defendant	Internet Protocol Address (IP)	Internet Service Provider (ISP)	Motion Picture Title/ Copyright Registration No.	Timestamp (North American Eastern Time)	Software
Doe 1	69.249.59.78	Comcast Cable	Danielle Staub Raw PAU 3-489-521	06/20/2010 03:06:29 PM	BitTorrent
Doe 2	71.176.150.221	Verizon Internet Services	Danielle Staub Raw PAU 3-489-521	06/20/2010 10:41:54 AM	BitTorrent
Doe 3	98.163.249.162	Cox Communications	Danielle Staub Raw PAU 3-489-521	06/20/2010 11:28:30 PM	BitTorrent
Doe 4	68.183.126.218	DSL Extreme	Danielle Staub Raw PAU 3-489-521	06/21/2010 01:45:16 AM	BitTorrent
Doe 5	67.61.71.229	CABLE ONE	Danielle Staub Raw PAU 3-489-521	06/20/2010 09:21:58 PM	BitTorrent
Doe 6	69.249.107.84	Comcast Cable	Danielle Staub Raw PAU 3-489-521	06/19/2010 01:43:27 PM	BitTorrent
Doe 7	173.171.153.133	Road Runner	Danielle Staub Raw PAU 3-489-521	06/19/2010 12:03:42 PM	BitTorrent
Doe 8	98.165.226.195	Cox Communications	Danielle Staub Raw PAU 3-489-521	06/20/2010 04:23:20 AM	BitTorrent
Doe 9	71.96.210.222	Verizon Internet Services	Danielle Staub Raw PAU 3-489-521	06/20/2010 05:03:58 AM	BitTorrent
Doe 10	69.124.239.147	Optimum Online (Cablevision Systems)	Danielle Staub Raw PAU 3-489-521	06/19/2010 12:06:31 PM	BitTorrent
Doe 11	74.4.70.39	Embarq Corporation	Danielle Staub Raw PAU 3-489-521	06/19/2010 02:19:15 PM	BitTorrent
Doe 12	69.125.178.68	Optimum Online (Cablevision Systems)	Danielle Staub Raw PAU 3-489-521	06/20/2010 12:02:55 AM	BitTorrent
Doe 13	66.91.47.148	Road Runner	Danielle Staub Raw PAU 3-489-521	06/19/2010 03:21:40 PM	BitTorrent
Doe 14	71.103.33.217	Verizon Internet Services	Danielle Staub Raw PAU 3-489-521	06/19/2010 03:28:34 PM	BitTorrent
Doe 15	98.236.20.18	Comcast Cable	Danielle Staub Raw PAU 3-489-521	06/20/2010 12:28:01 PM	BitTorrent
Doe 16	68.173.115.246	Road Runner	Danielle Staub Raw PAU 3-489-521	06/20/2010 11:17:19 AM	BitTorrent
Doe 17	76.103.16.14	Comcast Cable	Danielle Staub Raw PAU 3-489-521	06/20/2010 03:13:33 PM	BitTorrent
Doe 18	68.239.176.20	Verizon Internet Services	Danielle Staub Raw PAU 3-489-521	06/20/2010 01:38:44 AM	BitTorrent
Doe 19	76.94.193.126	Road Runner	Danielle Staub Raw PAU 3-489-521	06/21/2010 02:16:26 AM	BitTorrent
Doe 20	68.53.40.230	Comcast Cable	Danielle Staub Raw PAU 3-489-521	06/20/2010 03:05:21 PM	BitTorrent

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Attachment 1